

**Notice of Allowability**

Application No.

10/040,252

Examiner

Haissa Philogene

Applicant(s)

MORGAN ET AL.

Art Unit

2828

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 1/28/04.
2. ☒ The allowed claim(s) is/are 9-16, 18-39, 41-55 now numbered 1-45.
3. ☒ The drawings filed on 22 July 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Haissa Philogene  
Primary Examiner

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Specification, page 2, between line 16 and line 17, delete amendment D' (of paper #16) and insert the following:

- --This application is a CIP of application serial # 09/742,017 filed 12/20/00 now abandoned which is a CON of 09/213,548 filed 12/17/98 now U.S. patent # 6,166,496.
- This application is a CIP of application serial # 09/815,418 filed 03/22/01 now U.S. patent # 6,577,080 which is a CON of application serial # 09/213,548 filed 12/17/98 now U.S. patent # 6,166,496.
- This application claims benefit of provisional application 60/071,281 filed 12/17/97, and claims benefit of provisional application 60/068,792 filed 12/24/97 and claims benefit of provisional application 60/078,861 filed 03/20/98, and claims benefit of provisional application 60/079,285 filed 03/25/98, and claims benefit of provisional application 60/090,920 filed 06/26/98. —

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: The prior art fails to disclose an apparatus and method having a lighting fixture to generate variable color radiation to illuminate a liquid having a first dimension less than 2.5 inches, said first dimension being essentially normal to the portion of the inner surface of the one of the pool and the spa when said lighting fixture is mounted on the portion of the inner surface (claims 9 and 31); said lighting fixture having a first dimension and comprising at least one mounting mechanism to mount said lighting fixture to the inner surface and said inner surface being formed from at least one magnetic material and said at least one mounting mechanism including at least one magnetic mechanism to mount said lighting fixture to the inner surface (claim 12); said lighting fixture being adapted to be mounted on the portion of the inner surface such that said lighting fixture does not protrude through the portion of the inner surface (claim 28). The remaining claims 10, 11, 13-16, 18-27, 29, 30, 32-39, 41—55 are allowed by virtue of their dependencies on the independent claims. Hence, the examiner has allowed claims 9-16, 18-39 and 41-55.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 6:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hp

Haissa Philogene  
Primary Examiner  
11/21/2024